

App. No. 09/354,870  
Examiner Fischetti  
Art Unit 3627

## **REMARKS**

### **Status of the Claims**

Withdrawn - Claims 1-10

Currently Amended - Claims 11, 15, 17, 18, 20, and 21

Previously Presented - Claim 12

Cancelled - Claims 13, 14, 16, and 19

### **Written Statement of Record of Interview with Examiner**

Applicant's representatives Mr. Bob Mulloy and Mr. Kevin Leek, along with Applicant's Attorney Mr. Standley, met with Examiner Fischetti in his office on December 14, 2005. No exhibits or demonstrations were shown. Claims 11 and 15 were discussed. Applicant pointed out that the Longfield reference and the DiCrese reference each rely on loan agreements in order to complete their transactions. Applicant further pointed out that the present invention involves an assignment agreement for the transfer of the right to receive at least a portion of an income tax refund in exchange for issuance of a spending vehicle having predetermined spending value, and does not require a loan agreement. Neither Longfield nor DiCrese disclose an assignment agreement for issuance of a spending vehicle for all or a portion of an income tax refund. Applicant further discussed an embodiment of the invention in which the spending vehicle is issued to the taxpayer in advance of the transfer of the refund amount into an account for the spending vehicle provider. The Examiner's Interview Summary is incorporated herein by reference.

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**Remarks With Respect To The Claims As Herein Amended**

The present invention is unique in that it is the first method for providing a taxpayer with a spending vehicle in exchange for the spending vehicle provider receiving an assignment of all or a portion of a taxpayer's income tax refund. The spending vehicle may be of one type (such as a debit card from a particular retailer) or multiple types (such as debit cards, gift cards, or other stored value cards from a number of providers, including retailers, transportation providers, service providers, etc.) may be offered from which taxpayers may choose. The spending vehicles of the invention as claimed have a predetermined spending value, meaning that the amount of spending value for each spending vehicle is based at least in part on how much of the taxpayer's anticipated tax refund the taxpayer is willing to assign to the spending vehicle provider. Different taxpayers may assign different amounts of their anticipated tax refund to a spending vehicle provider(s) resulting in spending vehicles of particular value, which may be different from one taxpayer to the next. One taxpayer may anticipate receiving a refund of \$500, while another taxpayer may anticipate receiving a refund of \$2,000. If each taxpayer in this example decides to assign all of his or her income tax refund in exchange for a spending vehicle, the first taxpayer would receive a spending vehicle of predetermined value based on the anticipated \$500 refund and the second taxpayer would receive a spending vehicle of higher spending value based on the anticipated refund of \$2,000. This is not intended to suggest that just because a taxpayer assigns all of his or her anticipated refund that the spending vehicle would have a spending value equal to the anticipated refund amount, but just that it would be

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based thereon and may be adjusted for such things as fees for the service of providing the spending vehicle or may include incentive amounts to encourage participation in the method of the present invention.

The spending vehicles having spending value are not credit instruments, such as loans. The spending vehicles of the present invention have spending power (see page 2 of the specification as filed, first full paragraph). Debit cards or gift cards loaded with a predetermined amount of value or worth are examples of spending vehicles because they have spending power. Credit cards can be used to purchase goods or services but unless they have a pre-funded debit balance they do not have actual inherent value or worth.

According to various embodiments, the transaction of the present invention includes a party involved in the preparation of the taxpayer's income tax return. This may include a tax preparer or a tax preparation software provider or an internet site tax preparation service provider (see page 1 of the specification as filed, second paragraph). Such a party arranges with one or more spending vehicle providers to offer a spending vehicle(s) to taxpayers. An intermediary party (such as a financial institution that regularly issues financial cards) may be involved to assist in issuing the spending vehicle to the taxpayer (see, for example, Figure 4).

#### **Prior Claim Rejections Under 35 U.S.C. § 103**

Claims 11, 12, 17, and 18 have been previously rejected under 35 U.S.C. § 103(a) as being unpatentable over Longfield '523 in view of DiCresce. Applicant has amended independent claim 11 to indicate more clearly the unique aspects of the

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present invention. In view of Applicant's amended claims, Applicant respectfully traverses the rejections.

Longfield teaches the use of an income tax refund as collateral for a loan or a secured credit card. Regardless of whether the taxpayer accepts a loan or secured credit card, the taxpayer must complete some kind of a credit lending application. The tax refund is used only for collateral and in the event of a default the taxpayer remains liable to the creditor.

Like Longfield, DiCrese teaches loans and collateral to secure loans. In DiCrese, a collateral assignment of an insurance policy is used to secure a loan for the purchase of investments such as stocks and bonds. Specifically, DiCrese states in Col. 4, lines 59-60 "... the life insurance contract is assigned to a financial institution *as collateral in return for the loans.*" [Emphasis added]. DiCrese teaches a different type of collateral to secure a loan than disclosed in Longfield but adds nothing to the teachings of Longfield that in any way negatively impacts the patentability of the present invention. DiCrese does not overcome the deficiency of Longfield. Neither DiCrese nor Longfield teaches the issuance of a spending vehicle having a predetermined spending value in exchange for an assignment of a right to receive all or a portion of an income tax refund. DiCrese and Longfield teach the use of loan agreements, and therefore, DiCrese cannot be combined with Longfield to reject amended claim 11.

In contrast, the present invention comprises an assignment. The use of an assignment results in significant benefits for taxpayers and providers of spending vehicles. The sometimes arduous process of loan qualification and loan agreements may be avoided. Taxpayers are not required to take out a loan and remain liable for

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repayment of the loan. In addition, spending vehicle providers such as retailers, wholesalers, and distributors that are not in the business of granting loans to consumers can participate in the method of the present invention by simply agreeing to accept a tax refund in exchange for a spending vehicle.

The Examiner has previously further rejected claims 11, 15, 20, and 21 under 35 U.S.C. § 103(a) as being unpatentable over Longfield and DiCrese in view of Credit Card News. Applicant respectfully submits that for the reasons cited above, the DiCrese reference does not overcome the deficiency of the Longfield reference and therefore, cannot be combined with Longfield and Credit Card News to support the present rejections.

None of the prior art of record, alone or in combination, teaches the invention as now claimed in claim 11. The prior art fails to teach, among other things: (a) arranging to provide taxpayers with the option to choose to receive all or a portion of their income tax refund due, in the form of a spending vehicle having a predetermined spending value; (b) issuance of a spending vehicle in exchange for an assignment of all or a portion of an income tax refund due from a taxing authority; and (c) issuing a spending vehicle prior to receipt by the spending vehicle provider of the assigned portion of the tax refund. Furthermore, with respect to claim 15, the prior art fails to teach that the spending vehicle may have a value greater than the assigned portion of the tax refund.

Applicant respectfully submits that the present application is now in condition for allowance and respectfully requests such action. If the Examiner has any remaining questions regarding this Amendment or Remarks, the Examiner is encouraged to phone Applicant's Attorney at the number provided below.

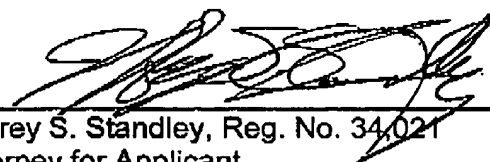
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Respectfully submitted,

Date:

12/30/05

By:



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